

MINUTES  
Waukesha County Stormwater Advisory Committee Meeting  
October 18, 2004

The meeting was called to order by chairman Perry Lindquist at 1:10 p.m. The following committee members were present:

Neal O'Reilly - Hey and Associates  
Jim D'Antuono - Wisconsin Department of Natural Resources  
Perry Lindquist - Waukesha County Land Resources  
Mike Hahn - SE Wisconsin Regional Planning Commission  
Gary Evans - Waukesha County Public Works  
Norm Hanson - Welch, Hanson and Associates  
Paul Day - City of Waukesha  
Curt Bolton - Village of Sussex  
Tim Barbeau - R.A. Smith and Associates  
Kurt Peot - Ruekert & Mielke, Inc.  
Walter Kolb - Waukesha County Supervisor/LUPE  
Richard Mace - Waukesha County Planning and Zoning  
John Siepmann - Siepmann Realty Corporation  
Randy Videkovich - Earth Tech Inc.

Others present:

Debbie Price - Waukesha County Corporation Counsel  
Mark Jenks - Waukesha County Land Resources (recorder)  
Alan Barrows - Waukesha County Land Resources

### **Minutes**

Minutes of August 2, 2004 meeting were e-mailed to group prior to the meeting. Perry asked if there were any suggested changes or comments on the minutes. There being none, the minutes were approved by consensus.

### **Project / Program Updates:**

NR 216 Training - Jim D'Antuono provided the group with an update on the training opportunities that are available related to Wisconsin's new post-construction urban storm water runoff rules. Two-day workshops are being sponsored by the Wisconsin DNR, University of Wisconsin-Extension and the Wisconsin Department of Commerce at four different locations around the state. In the Milwaukee area the workshop is scheduled for December 1-2 at Alverno College.

NR 216 Group Permits - Jim D'Antuono also provided the group with an update of the NR 216 Group Permit for the Upper Fox River. The Upper Fox River watershed group is very near to receiving its permit and it is anticipated the permit will be issued about the middle of November. Jim also indicated that Tony Fischer has been called up for active military duty and will be deployed about the middle of November as well.

## **Review 10/11/04 draft: Storm Water Management & Erosion Control Ordinance:**

The group then began discussion of the draft Waukesha County ordinance. Perry indicated that the draft copy distributed contained only the first eight sections of the revised ordinance. Additional sections will be forthcoming and will contain all of the technical components of the ordinance. It was agreed to review and comment on each section of the ordinance in chronological order.

**Sec. 14-326. Authority of Ordinance.** There was discussion regarding the previous ordinance language that recognized the DNR's ability to impose "more stringent" requirements in a DNR issued permit. It was agreed that additional clarification was needed from the DNR on their authority to either perform enforcement or require more stringent standards. Jim D'Antuono agreed to follow up on this. The group's preference was to remove the "more stringent" language to encourage uniformity. Perry will also add additional statutory references for the new nonpoint performance standards.

**Sec. 14-329 (b) Intent.** Language has been added to clarify that there is only one permit process under the ordinance covering both erosion control and storm water. The permit name is being shortened to "storm water permit", reflecting the federal and state laws, which only refer to storm water discharge permits. It was agreed to add a note that would help clarify how a permit issued under this ordinance as an "authorized local program" could satisfy the Notice of Intent (NOI) requirement of the DNR under NR 216.

**Sec. 14-329(c). Regional Storm Water Management.** It was decided to hold off on any discussion of the section until a future date when we review the other ordinance provisions on this topic. Tom Chapman (MMSD) suggested that to elaborate more on an approach that combines regional storm water management with on-site BMP's.

**Sec. 14-330. Jurisdiction.** There was discussion on the need to clarify where overlaps of ordinances for storm water management occur. This becomes most problematic in areas of recent annexations. The question of who determines which ordinance is more restrictive was raised. The group felt that the county should make that determination due to likely delays in relying on the DNR. It was also expressed that the development community would prefer to see as much uniformity as possible when it comes to any ordinances.

**Sec. 14-331. Applicability and Exemptions.** Perry explained that there are two types of activities that trigger the permit process: land disturbance (erosion control plan) and land development (storm water plan) – each with their own group of triggers. **(a) Construction Site Erosion Control.** Perry noted that in the erosion control subsection, he eliminated the smaller triggers in the shoreland area, instead relying on language allowing referrals from the County Zoning Administrator or the Park & Planning Commission and special protections for "environmentally sensitive areas". Concern was expressed about getting involved with routine highway maintenance projects and the need to handle situations that fall under the category of "emergency utility" work. County staff will investigate further the possibility of developing cooperative agreements between county departments and units of government to address these issues. It was also agreed that educational efforts would be needed to explain the "environmentally sensitive area" protection clause, regarding how it would be used.

**(b) Storm Water Management.** Under the storm water subsection, it was agreed to change the impervious surface trigger back to .5 acres to be consistent with MMSD, rather than 20,000 square feet. There was considerable discussion on the subject of road construction and road widening projects and when storm water planning would be required. The conclusion was that public highways should follow the same rules that private projects do. Therefore, the proposed language “within the drainage area of a single discharge point from the right-of-way” would be eliminated. It was agreed that special technical provisions would be considered later in the ordinance to address the unique nature of highway projects, similar to NR 151, where the term “maximum extent practicable” is used. It was also agreed to rely on a variance procedure for certain projects.

**(c) Exemptions.** One goal of the ordinance re-write is to eliminate duplication of effort by jurisdictional entities, including a provision to exempt a site that is already being regulated by another agency. There was considerable discussion on this subject. The group agreed with the concept, but some thought clarification may be needed on the definition of a “regulatory agency”

**Sec. 14-332. Storm Water Permit Process.** Following a short break, the group reconvened and began discussion of this section. All references to 20,000 sq. ft. will be changed to .5 acres. **(b) Preliminary Review Letter.** A diagram will be inserted to illustrate how the preliminary review letter process is to work. It was agreed to add “preliminary maintenance agreements” to the list of items required for a complete preliminary review letter application. It was also agreed to elaborate on the “county standards” for digital submittals.

**(c) Storm Water Permit Application.** There was discussion on who can legally sign a permit application and to whom the permit should be issued. Perry noted that NR 216 specifies the positions that are acceptable for signing a “notice of intent”, which is required for any community that applies for “authorized local program” status. Jim D’Antuono agreed to get some clarification on the requirement. The group was in general agreement that we should follow the DNR standards for application signature. Perry said this may require additional definition changes in the ordinance, such as “applicant” and “responsible party” and a review of the use of all these terms. It was agreed to resume the discussion in this section at the next meeting.

The meeting adjourned at 3:40 pm.

#### **Future Meeting Date(s):**

The next meeting was scheduled for Monday, December 6 at 1:00 PM. In addition, a meeting was scheduled for January 10, 2005 at 1:00 pm.

*[Note: A third meeting date was later added for November 15 at 1:00 PM]*